REMARKS/ARGUMENTS

Claim Amendments

The Applicant has proposed an amendment to claim 1 to correct a typographical error. The Applicant has proposed new claim 21. Support for new claim 21 can be found in at least page 9, lines 30-33 of the present specification. The Applicant submits no new matter has been added. Thus, Claims 1-10 and 13-21 are now pending. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendment and the following remarks.

Claim Rejections – 35 U.S.C. § 103 (a)

Claims 1, 6-10, 13, and 18-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent Number 7,088,677 (hereinafter referred to as "Burst") in view of U.S. Patent Publication Number 2003/0118011 A1 (hereinafter referred to as "Wu"). While not conceding that the cited references qualify as prior art, but instead to expedite prosecution, the Applicant has chosen to respectfully disagree and traverses the rejection as follows. The Applicant reserves the right, for example, in a continuing application, to establish that the cited references, or other references cited now or hereafter, do not qualify as prior art as to an invention embodiment previously, currently, or subsequently claimed.

The Applicant respectfully asserts that Burst and Wu, taken alone or in any permissible combination, fail to disclose, teach, and suggest the elements of independent claims 1, 9, 10, and 13. For example, Burst and Wu, taken alone or in any permissible combination, fail to disclose, teach, or suggest "receiving a request for said first media gateway to terminate a new bearer connection over said backbone from a second media gateway within said group of media gateways," (emphasis added) as recited in independent claim 1. Independent claims 9, 10, and 13 also recite substantially similar elements. In support of the rejection of the independent claims, page 3 of the present Final Office Action refers to col. 8, lines 1-10 of Burst. The Applicant assumes that page 3 of the Final Office Action actually intended to refer to

col. 18, lines 1-10 of Burst since col. 8, lines 1-10 of Burst refer to part of the brief description of the drawings.

Col. 18, lines 1-10 of Burst discusses:

FIG. 10 is a flowchart illustrating the handling of a communications request in an embodiment of the present invention. The media gateway receives a request to create a call to a specific destination 1002. The source media gateway (202) retrieves Db and Dt from the congestion state table 403. If all of the elements of Db exceed Dt, then congestion is implied and the media gateways (202) at both ends of the communication should stop admitting new calls until none of the elements of Db exceed Dt. If Db>Dt, the source gateway (202) rejects the request 1008. If Dt≤Db, the request is accepted 1110. In another embodiment, the congestion state table (403) includes a flag for each destination gateway (202) on the network, denoting whether or not connection requests to the destination should be accepted. This flag is updated periodically.

Burst appears to discuss receiving, at a media gateway, a request to create a call to a specific destination. The system of Burst then determines the congestion state of the connection between the media gateway and the specific destination. If the congestion state exceeds a particular threshold, the request is not accepted. If the congestion state is less than or equal to a particular threshold, the request is accepted. However, despite such discussion, Burst's "specific destination" cannot be fairly analogized to the claimed "a second media gateway within said group of media gateways," as recited in independent claim 1. The system in Burst analyzes the congestion state of a connection between a media gateway and any specific destination without determining if Burst's specific destination is part of any group. In an attempt to remedy Burst's deficiency of identifying a group of media gateways, page 4 of the Final Office Action cites another reference, as detailed below.

Page 4 of the Final Office Action states that "Burst does not explicitly teach the group of media gateways are identified by a specific subnet mask." In an attempt to remedy this deficiency of Burst, page 4 of the Final Office Action cites paragraphs [0017] and [0041] of Wu. Paragraph [0017] of Wu merely discusses the identification of a VoIP proxy server with the lowest workload and connecting a VoIP client to the identified VoIP proxy server. Paragraph [0041] of Wu discusses:

In yet another embodiment, a subnet of the entire VoIP proxy network may be configured to transmit the workload information between the VoIP proxy servers and the load monitor 14. In another embodiment, there could exist redundant load monitors 14 for fault tolerance. In yet another embodiment, the VoIP proxy servers may be configured to broadcast network packets. By this means, each VoIP proxy server can send its workload information to multiple load monitors 14 simultaneously instead of via separate packets.

Thus, in other words, Wu discusses configuring a subnet of a VoIP proxy network to transmit workload information. Even if the cited passage of Wu discloses "the group of media gateways are identified by a specific subnet mask" (a point which the Applicant does not concede), nothing in the cited passages of Burst and Wu, taken alone or in any permissible combination, discloses, teaches, or even fairly suggests identifying a specific destination as a part of the identified subnet. In stark contrast, the independent claims recite "<u>receiving a request</u> for said first media gateway to terminate a new bearer connection over said backbone <u>from a second media gateway within said group of media gateways</u>," (*emphasis added*). At most, the cited passages of Burst and Wu, taken alone or in any permissible combination, discusses receiving, at a media gateway, a request to create a call to a specific destination and analyzing the congestion between the media gateway and the specific destination (Burst) and configuring a subnet of a VoIP proxy network to transmit workload information to at least one load monitor (Wu). There is simply no disclosure, teaching, or fair suggestion that the specific destination is part of a subnet.

In fact, one with skill in the art would not even expect Burst and Wu, taken alone or in any permissible combination, to disclose "<u>receiving a request</u> for said first media gateway to terminate a new bearer connection over said backbone <u>from a second media gateway within said group of media gateways</u>," (*emphasis added*) as recited in independent claim 1 because Wu discusses receiving workload information in order to load balance VoIP proxy server handling of VoIP clients. Measuring workload ("the amount of data being processed per second, the number of clients, etc." *See, e.g.,* paragraph [0031] of Wu) information of a VoIP proxy server cannot be (and should not be) analogized to "level of congestion suffered by incoming packets," as recited in the

independent claims. Workload information, as discussed by Wu, refers to available processing necessary to handle client VoIP transactions. On the other hand, "level of congestion suffered by incoming packets," as recited in the independent claims refers to network bandwidth available to convey packets between a first media gateway and a second media gateway. Thus, Burst and Wu, taken alone or in any permissible combination, fails to disclose, teach, or suggest each and every element of independent claims 1, 9, 10, and 13. The Applicant therefore asserts that independent claims 1, 9, 10, and 13 and all claims dependent therefrom are patentable over Burst and Wu, taken alone or in any permissible combination. In view of the foregoing, the Applicant respectfully requests that the rejection be withdrawn.

Claims 2 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Burst as applied to claims 1, 6-10, 13, and 18-20, above, and further in view of US Patent Number 6,876,627 B1 (hereinafter referred to as "Rao"). While not conceding that the cited references qualify as prior art, but instead to expedite prosecution, the Applicant has chosen to respectfully disagree and traverses the rejection as follows. The Applicant reserves the right, for example, in a continuing application, to establish that the cited references, or other references cited now or hereafter, do not qualify as prior art as to an invention embodiment previously, currently, or subsequently claimed.

Claim 2 is dependent on independent claim 1 and claim 14 is dependent on independent claim 13. Rao is not cited for disclosing, teaching, or even suggesting any of the elements of independent claims 1 or 13. Thus, dependent claims 2 and 14 are patentable over Burst and Rao, taken alone or in any permissible combination, at least by virtue of their dependency on independent claims 1 and 13. The Applicant therefore respectfully requests that the rejection be withdrawn.

Claims 3, 5, 15 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Burst as applied to claims 1, 6-10, 13, and 18-20, above, and further in view of U.S. Patent Number 6,542,499 (hereinafter referred to as "Murphy"). While not conceding that the cited references qualify as prior art, but instead to expedite prosecution, the Applicant has chosen to respectfully disagree and traverses the rejection as follows. The Applicant reserves the right, for example, in a continuing

application to establish that the cited references, or other references cited now or hereafter, do not qualify as prior art as to an invention embodiment previously, currently, or subsequently claimed.

Claims 3 and 5 are dependent on independent claim 1 and claims 15 and 17 are dependent on independent claim 13. Murphy is not cited for disclosing, teaching, or even suggesting any of the elements of independent claims 1 and 13. Thus, dependent claims 3, 5, 15, and 17 are patentable over Burst and Murphy, taken alone or in any permissible combination, at least by virtue of their dependency on independent claims 1 and 13. The Applicant therefore respectfully requests that the rejection be withdrawn.

Claims 4 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Burst as applied to claims 1, 6-10, 13, and 18-20, above, and further in view of Rao as applied to claims 2 and 14 and Murphy as applied to claims 3, 5, 15 and 17 above. As mentioned above, Rao and Murphy are not cited as disclosing, teaching, or suggesting any of the elements of independent claims 1 and 13. Thus, dependent claims 4 and 16 are patentable over Burst, Rao, and Murphy, taken alone or in any permissible combination, at least by virtue of their dependence on independent claims 1 and 13. The Applicant therefore respectfully requests that the rejection is withdrawn.

CONCLUSION

In view of the foregoing remarks, the Applicant believes all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for all pending claims.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,

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